

In RE:

Bahram Afshar

Debtor and Sophie Afshar Codebtor

Address: 13080 Park Crescent Cir

Herndon, VA 20171

Last four digits of Social Security No.(s): XXX-XX-8723

BCN #: 17-13654-BFK

Chapter: 13

Notice of Motion and Hearing

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not wish the Court to grant the relief sought in this motion, or if you want the Court to consider your views on this motion, then within fourteen (14) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314, and serve a copy on the Movant. Unless a written response is filed and served within this fourteen day period, the Court may deem any opposition waived, treat the motion as conceded, and issue an Order granting the requested relief without further notice or hearing.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the fourteen day period.

You may attend the preliminary hearing scheduled to be held on: January 17, 2018 at 9:30 AM in Courtroom I, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an Order granting the requested relief.

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: November 30, 2017

/s/ Mary F. Balthasar Lake

BY: Gregory N. Britto, Esquire VSB #23476
William M. Savage, Esquire VSB #26155
Malcolm B. Savage, III, Esquire VSB #91050
Thomas J. Gartner, Esquire VSB #79340
Mary F. Balthasar Lake, Esquire VSB #34899
Leonard C. Tengco, Esquire VSB #76395
SHAPIRO & BROWN, LLP
501 Independence Parkway, Suite 203
Chesapeake, Virginia 23320
(703) 449-5800
VABECF@logs.com

Certificate of Service

I certify that I have this 30th day of November, 2017, electronically transmitted and/or mailed by first class mail, postage pre-paid, a true copy of the foregoing Notice of Motion and Hearing to the following:

Michael Jacob Owen Sandler
12801 Darby Brooke Court
Suite 201
Woodbridge, VA 22192

Thomas P. Gorman
300 N. Washington St. Ste. 400
Alexandria, VA 22314

Bahram Afshar
13080 Park Crescent Cir
Herndon, VA 20171

Sophie Afshar
13080 Park Crescent Cir
Herndon, VA 20171

/s/ Mary F. Balthasar Lake

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In Re:
Bahram Afshar
Debtor

BCN#: 17-13654-BFK
Chapter: 13

LEHMAN XS TRUST MORTGAGE
PASS-THROUGH CERTIFICATES,
SERIES 2006-2N, U.S. Bank National
Association, as Trustee
or present noteholder,
Movant/Secured Creditor,

v.
Bahram Afshar
Debtor
Sophie Afshar
Codebtor
and
Thomas P. Gorman
Trustee
Respondents

NOTICE OF Co-Debtor MOTION AND HEARING

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not wish the Court to grant the relief sought in this motion, or if you want the Court to consider your views on this motion, then within twenty (20) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314, and serve a copy on the Movant.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the twenty day period.

You may attend the preliminary hearing scheduled to be held on: January 17, 2018 at 9:30 AM in Courtroom I, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314.

If you do not file a written response by the deadline shown, the law provides that the automatic stay protecting you from further legal action against you by this creditor will automatically terminate as provided for in 11 U.S.C. §1301(d).

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: November 30, 2017

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United States Bankruptcy Court
Eastern District of Virginia
Alexandria Division

In Re:
Bahram Afshar
Debtor

BCN#: 17-13654-BFK
Chapter: 13

LEHMAN XS TRUST MORTGAGE
PASS-THROUGH CERTIFICATES,
SERIES 2006-2N, U.S. Bank National
Association, as Trustee
Movant/Secured Creditor,

Motion for Order Granting Relief From
Automatic Stay and Co-Debtor Stay for Bad
Faith in Filing for Injunction Preventing
Subsequent Filings as to Movant

v.
Bahram Afshar
Debtor
Sophie Afshar
Codebtor
and
Thomas P. Gorman
Trustee
Respondents

COMES NOW, LEHMAN XS TRUST MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-2N, U.S. Bank National Association, as Trustee, its assignees
and/or successors in interest, (hereinafter “the Movant”), by counsel, and moves the Court for an
Order Granting Relief from the automatic stay of 11 U.S.C. § 362 (a), and in support thereof
states as follows:

1. The bankruptcy court has jurisdiction over this contested matter pursuant to 28
U.S.C. § 157 and § 1334; 11 U.S.C. § 362; Federal Rule of Bankruptcy Procedure 9014 and; 11
U.S.C. § 1301(a). This matter is a core proceeding.

2. The above named Debtor filed a Chapter 13 Petition in Bankruptcy with this
Court on October 28, 2017.

3. Thomas P. Gorman has been appointed by this Court as the Chapter 13 Trustee in
this instant Bankruptcy proceeding.

4. Movant is the current payee of a promissory note secured by a deed of trust upon
a parcel of real property (hereinafter “the Property”) with the address of 13080 Park Crescent
S&B# 16-260417

Cir, Herndon, VA 20171 and more particularly described in the Deed of Trust dated November 1, 2005 and recorded as Deed Book 17939, Page 0204 among the land records of the said city/county, as:

Lot 144, Section 1-B-3, WOODLAND PARK, as the same appears duly dedicated, platted and recorded in Deed Book 10501, Page 1557, among the Land Records of Fairfax County, Virginia.

(Copies of Deed of Trust and Note are attached hereto marked as Exhibit "A" and "B" and made a part hereof by reference).

5. Movant is informed and believes, and, based upon such information and belief, alleges that title to the subject Property is currently vested in the name of the Debtor and the Co-Debtor.

6. Movant has elected to initiate foreclosure proceedings on the Property with respect to the deed of trust, but is prevented by the Automatic Stay from going forward with these proceedings.

7. The instant Bankruptcy petition was filed in bad faith and solely to delay Movant's efforts to foreclose on its security interest in the above described property. In support thereof, Movant further states that the Debtor and Codebtor have filed the following bankruptcy petitions with the following results:

a.) Chapter 7 bankruptcy filed September 22, 2008 in the Eastern District of Virginia (Alexandria)

Case number: 08-15807-SSM

Filed by: Bahram Afshar

Result: standard discharge December 24, 2008

b.) Chapter 13 bankruptcy filed May 22, 2012 in the Eastern District of Virginia (Alexandria)

Case number: 12-13277-BFK

Filed by: Bahram Afshar

Foreclosure Sale: May 24, 2012

Total Debt: \$520,453.77

Result: dismissed for failure to file information November 5, 2012

- c.) Chapter 13 bankruptcy filed December 11, 2014 in the Eastern District of Virginia (Alexandria)

Case number: 14-14608-BFK

Filed by: Bahram Afshar

Foreclosure Sale: December 16, 2014

Total Debt: \$574,430.88

Result: dismissed for other reason February 9, 2015

- d.) Chapter 13 bankruptcy filed August 29, 2015 in the Eastern District of Virginia (Alexandria)

Case number: 15-13000-BFK

Filed by: Bahram Afshar

Foreclosure Sale: September 2, 2015

Total Debt: \$590,945.72

Result: dismissed for other reason March 6, 2017

- e.) Chapter 13 bankruptcy filed March 11, 2017 in the Eastern District of Virginia (Alexandria)

Case number: 17-10794-BFK

Filed by: Sophie Maltas Afshar

Foreclosure Sale: March 15, 2017

Total Debt: \$622,273.84

Result: dismissed for failure to file information April 12, 2017

- f.) Chapter 13 bankruptcy filed July 24, 2017 in the Eastern District of Virginia (Alexandria)

Case number: 17-12543-KHK

Filed by: Sophie Maltas Afshar

Foreclosure Sale: July 26, 2017

Total Debt: \$623,940.59

Result: dismissed for failure to file information August 31, 2017

- g.) Chapter 13 bankruptcy filed October 28, 2017 in the Eastern District of Virginia (Alexandria)

Case number: 17-13654-BFK

Filed by: Bahram Afshar

Foreclosure Sale: November 1, 2017

Total Debt: \$639,458.49

Result: Open and Pending

8. The series of seven (7) bankruptcy filings indicate lack of “good faith” on the part of the Debtor and Codebtor, constitutes a substantial abuse of the Bankruptcy Code, and is cause to grant the relief prayed for in the instant bankruptcy case.

9. The Debtor and Codebtor’s pattern of successive bankruptcy filings indicates “bad faith” and an attempt to forestall any foreclosure actions undertaken by Movant. In the Debtor’s first bankruptcy, a chapter 7, resulted in a standard discharge December 24, 2008. The Debtor’s second bankruptcy, a chapter 13, was dismissed for failure to file information November 5, 2012. The Debtor’s third bankruptcy, a chapter 13, was dismissed for other reason February 9, 2015. The Debtor’s fourth bankruptcy, a chapter 13, was dismissed for other reason March 6, 2017. The Codebtor’s first bankruptcy, a chapter 13, was dismissed for was dismissed for failure to file information April 12, 2017. The Codebtor’s second bankruptcy, a chapter 13, was dismissed for was dismissed for failure to file information August 31, 2017.

10. That the Debtor is in default with regard to payments which have become due under the terms of the aforementioned note and Deed of Trust. The loan is contractually due from September 1, 2008. The debtor is also due for fees and costs for the drafting and filing of the Motion for Relief .

- | | | |
|---|---------------------|----------|
| o | Bankruptcy Fees of | \$850.00 |
| o | Bankruptcy Costs of | \$181.00 |

11. As of November 29, 2017, the unpaid principal balance on the said note is \$434,749.27.

12. As of November 29, 2017, the total amount due is \$645,171.51 (not to be relied upon as the payoff amount).

13. That the value of the Property is \$450,120.00 based on the county's tax assessed value of the Property. That based upon the above information and belief, there is little or no equity in the Property

14. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

15. That the Movant is informed and believes, and, based upon the Chapter 13 plan dated November 28, 2017 that the Debtor(s) intend to surrender the above mentioned property.

16. Movant is informed and believes, and, based upon such information and belief, alleges that absent the Court's Order allowing the Movant to proceed with the pending foreclosure, Movant's security will be significantly jeopardized and/or destroyed.

17. Continuation of the automatic stay of 11 U.S.C. § 362(a) will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362 due to the aforementioned facts.

18. Movant requests that the Court hear this matter on January 17, 2018 at 9:30 AM.

Wherefore, the Debtor having forsaken the legitimate use of the bankruptcy process, the Movant prays that the court enter in an order granting In Rem Relief from the Automatic Stay of 11 USC § 362(a), and Codebtor stay of 11 U.S.C. § 1301 and ordering that a subsequent filing by the Debtor, the Codebtor, or any party to which he/she may transfer the property, will not create a stay as to the property and will be ineffective as to the Movant for a period of two years from the entry of this Order. Movant further requests that the 14-day waiting period imposed by F.R.B.P. 4001(a)(3) be waived, and further ordering that the Movant may proceed to perform any and all acts necessary in order to obtain lawful possession of the property subsequent to any foreclosure sale. Movant further requests attorneys' fees and costs, and such further relief as the Court and equity deem justifiable.

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: November 30, 2017

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I certify that I have this 30th day of November, 2017, electronically transmitted and/or mailed by first class mail, true copies of the Motion for Order Granting Relief From Automatic Stay and Co-Debtor Stay for Bad Faith in Filing for Injunction Preventing Subsequent Filings as to Movant to each party required to receive notice.

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